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Human Rights Council
Thirty-seventh session
26 February-23 March 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1802095

Please recycle

BANGLADESH: Law on torture is useless in a broken justice mechanism

The Asian Legal Resource Centre (ALRC) has repeatedly raised the issues relating to Bangladesh's torturous and coercive law-enforcement system coupled with a broken down justice mechanism in place.

Bangladesh is a country where torture is institutionalised. The notion of law-enforcement does not exist without the use of torture at the core of its functionality. Crime investigation and torture are synonymous. Torture has relations with the chain of corruption within the policing system as well as the political desperation. The influential political, bureaucratic and financial elites keep the police involved in torture so that the practice helps gaining their desired benefits. Thus, they encourage the police, which carry the colonial torturous legacy, to continue torture in exchange of administrative blessings and financial proceeds as bribes.

The institutionalised practice of torture and the political dependency on such torturous system has made Bangladesh a 'police state' in the post 'war on terror' era. The police, along with other external and internal stakeholders, dominate the process of determining the fate of politics and democracy in Bangladesh. The situation has reached to such a height that the police have been seen dictating voters whom to cast their votes.

Bangladesh's National Parliament enacted the "*Torture and Custodial Death (Prohibition) Act-2013*[1]" on 25 October 2013. Since the adoption of the law, the incumbent government has not used the law. Less than ten cases of torture have been registered since the law was enacted. Among the registered cases the investigation has not led to any prosecution in more than four years. In contrast, numerous incidents of torture routinely occur throughout the country.

The Bangladesh Police have been insisting the government to amend the anti-torture law so that the perpetrators of the State agents do not suffer any problem, in case the law is ever used assertively. For successive years the police officials have been demanding amendment to the Act Number 50 of 2013. The latest instance is of 8 January 2018 when Prime Minister Sheikh Hasina was attending the Annual Police Week programme. A Police Inspector named Forman Ali demanded to the Premier to amend the Torture and Custodial Death (Prohibition) Act – 2013. Inspector Forman reportedly said,

> "*Even if someone dies in custody from psychological stress, the police are being blamed for it. It is difficult to get a confession from a criminal unless the person is pressured psychologically. As cases filed under this Act are non-bailable, a police official will not be able to get bail if accused in a false case.*"

Replying to Forman Ali, the Prime Minister said, "*I cannot comment on the law itself, but we will consider the possibility of amending the Act.*"[2]

The Prime Minister's assurance to the police about 'considering the possibility of amending' the law further proves the government's hollow commitment to provide justice to the victims of torture. It also clearly shows that the Prime Minister owes to the police for their torturous actions.

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1 Bangladesh's *Torture and Custodial Death (Prohibition) Act-2013*, an unofficial English translation can be accessed from the website of Asian Human Rights Commission: http://www.humanrights.asia/countries/bangladesh/countries/bangladesh/laws/legislation/Torture-CustodialDeath-ActNo50of2013-English.pdf/

2 Dhaka Tribune, 11 January 2018, *Police want amendment of custodial death prevention act*, last accessed on 2 February 2018: http://www.dhakatribune.com/bangladesh/law-rights/2018/01/11/police-want-amendment-custodial-death-prevention-act/

The given condition of political patronage by the highest governmental authority crimes like knee-capping in police custody are increasing in Bangladesh. Numerous victims have been surviving with permanent disability as their limbs were amputated due to lack of adequate medical treatment. Many are languishing in prisons as the police fabricated criminal cases against them for suppressing the stories.

Bangladesh's justice institutions characteristically contribute to the process of nourishing the torturous and coercive law-enforcement system. The Judiciary – from the Magistracy to the Supreme Court – do not provide remedies to victims of torture, kneecapping, and of other gross abuses of human rights. Rather, the Sub-ordinate Judiciary often orders that the detainees be sent to "police remand" for further "interrogation" responding to the wish of the police, even though it is nationally known that "remand" is synonymous with "torture" in police custody.

Securing judicial remedies from the High Court Division and Appellate Division of the Supreme Court of Bangladesh is unaffordable to most of the victims who are financially poor. A few gets minimum amount of judicial remedies, subject to the identities of the petitioners and their legal representatives before the Courts. The torture victims, having association with opposition parties and not being represented by the pro-government high-profile lawyers, concede with lesser chance of getting remedies than others who can afford it. In recent years, the pro-opposition defendants get remedies under harsher conditions imposed by the Courts, if any remedy is made available to them. Extreme forms of politicisation of the judiciary throughout the process of recruitment, postings, and elevations have created this circumstance.

The Judiciary is not even ignorant about the behaviour and practice of the police. The judges of all branches know very well that the police, as the controller of the complaint mechanism, do not register complaints that allege torture, extrajudicial executions, or enforced disappearance, as the allegations are against their colleagues. It is also known to everyone that if any complaint is registered with the Magistrate's Court, the police – who are the statutory investigators of criminal cases – protect their colleagues in exchange of bribes. However, the Judiciary prefers turning a blind eye to the need of holding a fair trial.

The victims of torture do not get access to the complaint mechanism. There is no guarantee of credible investigation of the crime of torture. Subsequently, the question of prosecution cannot be imagined. The Judiciary as a whole complies with the wish of the police ignoring the condition and requirements of the victims of torture. The whole justice mechanism and the government together makes the anti-torture law a useless document, which has never been used to uphold justice since the enactment.

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has never been invited to visit Bangladesh. Reminder should be sent to government about the pending invitation for country visit. The UN Human Rights Council requires re-examining the effectiveness of the human rights mechanisms, which should not be as failed as the justice mechanism of Bangladesh in protecting the victims of torture and other forms of violation of rights.

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Agenda item 4
Human rights situations that require the Council's attention

Joint written statement* submitted by the Nonviolent Radical Party, Transnational and Transparty, a non-governmental organization in general consultative status; the Women's Human Rights International Association and France Libertés: Fondation Danielle Mitterrand, non-governmental organizations in special consultative status; and International Educational Development, Inc. and Mouvement contre le racisme et pour l'amitié entre les peuples, non-governmental organizations on the roster

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Civil society urges UN to launch fact-finding mission to investigate Iran's 1988 massacre in order to end impunity and prevent the same fate for detained protesters today*

Following reports by the United Nations Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and the UN Secretary General to the General Assembly highlighting the 1988 massacre of political prisoners in the Islamic Republic of Iran, a civil society hearing was held in Geneva on 1 February 2018 to discuss the necessary steps for bringing an end to the impunity enjoyed by the perpetrators. In her report, Special Rapporteur Asma Jahangir stated that "families of the victims have the right to a remedy, which includes the right to an effective investigation of the facts and public disclosure of the truth; and the right to reparation. The Special Rapporteur therefore calls on the Government to ensure that a thorough and independent investigation into these events is carried out."

The civil society hearing in Geneva heard witnesses and legal experts and offered an adjudication of the 1988 massacre of political prisoners in the Islamic Republic of Iran. The hearing was the first of its kind by NGOs in Geneva, and it urged immediate action by the UN to address the current wave of mass arrests and killings in Iranian jails following the recent anti-government protests.

International civil society and NGOs urged the UN High Commissioner for Human Rights to establish a fact-finding mission to investigate the months-long 1988 massacre during which Iran's government executed an estimated 30,000 political prisoners, mostly activists of the People's Mojahedin Organization of Iran (PMOI / MEK).

During the Geneva hearing, former UN judges, senior human rights officials and human rights experts and advocates stressed that such an inquiry, long overdue, is now especially crucial in light of the arrest of thousands of peaceful anti-government protesters at the turn of the year, after which numerous protesters died while in authorities' custody. Many more are at risk of a similar fate.

Eleven detainees so far have been identified by name as having died as a result of torture in Iran's prisons. In an act of propaganda, authorities have attempted to downplay some of these deaths by insisting that they actually were instances of suicide.

"Deceased prisoners have died of guilty conscience," Hassan Nowroozi, the spokesman for the Iranian Parliament's Legal and Judicial Committee, was quoted as saying. "The deaths of many of these people in prison may be related to regretting their acts. They realized the ugliness of their acts, and maybe that led to their suicide in prison."

Such language is chillingly familiar. In declaring the people's demands for democracy to be "ugly," figures such as Nowroozi recall attention to the sentiment that all enemies of the authorities are enemies of God — a sentiment that was codified into law following a fatwa issued in 1988 by Supreme Leader Khomeini. That religious pronouncement led inexorably to the creation of death commissions in various cities throughout Iran, where they were tasked with eliminating all political prisoners who remained loyal to their beliefs.

In the first session of the civil society hearing, Kirsty Brimelow QC, Chair of the Bar Human Rights Committee of England and Wales, presented an indictment. In the course of the hearing she introduced 15 witnesses who were either survivors of the 1988 massacre or families of the victims. In another session, four distinguished experts; Jean Ziegler, vice president of the Advisory Committee to the UN Human Rights Council; Juan Garcés, chief lawyer in the Spanish case against General Pinochet; Eric Sottas, former Secretary-General of the World Organization Against Torture (OMCT); and Tahar Boumedra, former chief of the Human Rights Office of the UN Assistance Mission for Iraq; discussed the nature of the crimes and the UN's obligations regarding the 1988 massacre. In the final session, Geoffrey Robertson QC, head of Doughty Street Chambers in the UK and former appeal judge at the UN Special Court for Sierra Leone; and Professor Eric David, Professor emeritus of international law at the Université libre de Bruxelles; acting as adjudicators, offered their opinions based on the evidence and made recommendations to the UN.

Participants in the hearing expressed a consensus that the 1988 massacre clearly constitutes a crime against humanity. They stressed that the international community and in particular the UN are obliged to take all necessary measures to end impunity in this case and they warned that failure to hold Tehran accountable would simply emboldened the Iranian authorities to continue their gross human rights violations. According to the indictment presented at the hearing, many of the leading perpetrators of the 1988 massacre remain alive today and even continue to hold positions of prominence in Iranian politics and law.

Kirsty Brimelow summed up her presentation after hearing all the witnesses, establishing beyond any doubt that, based on undeniable facts and evidence including official acknowledgements, a crime against humanity had occurred in 1988 and that it has continued to date. She named several perpetrators of the 1988 massacre currently holding key judicial positions, including Justice Minister Alireza Avaie and Advisor to the Head of the Judiciary Mostafa Pour-Mohammadi. She warned that if this impunity is not ended, the lives of those arrested at the beginning of 2018 would be at serious risk.

Jean Ziegler, Eric David and Tahar Boumedra, citing Article 7 of the Rome Statute, stated that the 1988 mass killings in the Islamic Republic of Iran constitute crimes against humanity. Both Geoffrey Robertson and Tahar Boumedra made the case that it is well established that the Iranian authorities will not and cannot launch an independent investigation into this massacre, and thus, the relevant Special Procedures ought to individually and collectively call on the UN to establish an impartial commission of inquiry.

The testimonies of the 15 witnesses provided solid facts and undeniable evidence of the extent of the crimes committed and the suffering of the survivors and the families of the victims. One witness explained that 14 members of her family had been executed in the Islamic Republic of Iran for their belief, five of them during the 1988 massacre. Three of the survivors explained that preparation for the mass executions started several months before the massacre itself. Geoffrey Robertson in his conclusion discussed in detail why there could be no justification for the massacre, which he said was more tragic than the Death Marches of Prisoners of War during World War II in Japan and the mass killings of Srebrenica.

Witnesses also described the ongoing suffering of the families of those who were executed. "By killing every other member of a family, they killed the whole family and made them suffer for the rest of their lives," one witness said.

Conclusion and recommendation

Thirty years after the 1988 mass extra-legal executions of political prisoners in Iran, we believe that until the full truth is unveiled and the perpetrators are held to account for their crimes, there will be no incentive for the government of Iran to change its policy on human rights. We therefore urge the UN High Commissioner for Human Rights to set up an independent fact-finding mission to investigate the 1988 massacre to reveal the truth, hold the perpetrators to account and seek justice, reparation and guarantees of non-recurrence.

Background information

UN Special Rapporteur's position on the 1988 massacre in Iran

The report (A/72/322) by Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Asma Jahangir, transmitted to the General Assembly by Secretary General António Guterres on 14 August 2017, stated:

"73. Between July and August 1988, thousands of political prisoners, men, women and teen-agers, were reportedly executed pursuant to a fatwa issued by the then Supreme Leader, Ayatollah Khomeini. A three-man commission was reportedly created with a view to determining who should be executed. The bodies of the victims were reportedly buried in unmarked graves and their families never informed of their whereabouts. These events, known as the 1988 massacres, have never been officially acknowledged. In January 1989, the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran, Reynaldo Galindo Pohl, expressed concern over the "global denial" of the executions and called on Iranian authorities to conduct an investigation. Such an investigation has yet to be undertaken.

"74. In August 2016, an audio recording of a meeting held in 1988 between high-level State officials and clerics was published. The recording revealed the names of the officials who had carried out and defended the executions, including the current Minister of Justice, a current high court judge, and the head of one of the largest religious foundations in the country and candidate in the May presidential elections. Following the publication of the audio recording, some clerical authorities and the chief of the judiciary admitted that the executions had taken place and, in some instances, defended them."

The SR-Iran's report concluded:

"109. Over the years, a high number of reports have been issued about the 1988 massacres. If the number of persons who disappeared and were executed can be disputed, overwhelming evidence shows that thousands of persons were summarily killed. Recently, these killings have been acknowledged by some at the highest levels of the State. The families of the victims have a right to know the truth about these events and the fate of their loved ones without risking reprisal. They have the right to a remedy, which includes the right to an effective investigation of the facts and public disclosure of the truth; and the right to reparation. The Special Rapporteur therefore calls on the Government to ensure that a thorough and independent investigation into these events is carried out."

UN Secretary General's report

A report by Secretary General António Guterres to the General Assembly, (A/72/562), about the "Situation of human rights in the Islamic Republic of Iran", dated 31 October 2017, stated:

"55. During the reporting period, the Office of the United Nations High Commissioner for Human Rights (OHCHR) continued to receive a large number of complaints from families of the victims of executions which took place in 1988. In a joint statement issued in March, 20 human rights organizations called on the authorities to stop the harassment, intimidation and prosecution of human rights defenders seeking truth and justice on behalf of individuals who were summarily executed or forcibly disappeared during the 1980s and of their families."

The civil society hearing was organized by Justice for the Victims of the 1988 Massacre in Iran (JVMI); France Libertés - Fondation Danielle Mitterrand; Nonviolent Radical Party, Transnational and Transparty; Women's Human Rights International Association (WHRIA); and International Educational Development (IED), the latter four of which have Consultative Status at the UN.

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*Justice for Victims of 1988 Massacre in Iran NGO without consultative status, also shares the views expressed in this statement.

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Agenda item 10
Technical assistance and capacity-building

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), non-governmental organization in special consultative status; International Educational Development, Inc., and the World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Yemen - Women and Girls in Conflict*

Background and Humanitarian Situation

Yemenis have been experiencing an ongoing civil war since 2014 when the Houthis, an anti-government force, took control of the city of Sana'a. This fight became international with the 2015 intervention by the Saudi-led coalition.

The conflict has quickly escalated into an extremely dire humanitarian crisis and in December 2017, it reached 1000 days of civil war. During these years of war, the Yemeni population has been witnessing multiple grave human rights violations, such as enforced displacements, enforced disappearances, abductions, indiscriminate killings and attacks on civilians.

Furthermore, the attacks and indiscriminate shelling carried out by all parties to the conflict have left Yemen in ruins and without effective medical aid, sufficient food and clean water. The country is equally facing famine. Consequently, an increasing number of people are suffering from malnutrition and a health crisis caused by the destruction of most of the facilities paralleled by the widespread presence of cholera and waterborne diseases. The Yemeni population has been surviving thanks to humanitarian aid. In fact, the country "imports up to 90 per cent of its daily needs"1. This is why it is crucial that all parties to the conflict ensure access to humanitarian workers in order to provide the civilian population with all the basic necessities of which they are in urgent need.

Discrimination against Women and Human Rights Violations

During armed conflicts the two categories of the population that are the most vulnerable and the most affected by the situation are children and women. Already before the beginning of the civil war and for the last three decades, women in Yemen have been facing different forms of discrimination. According to a 2013 UNFPA survey, 92% of Yemeni women have experienced violence at home.2

The war further aggravates their vulnerability, increasing the discrimination and violations they face, both physically and psychologically. They have been confronted with extreme human rights and gender based violence among which are killings, injuring, sexual harassment, denied right to education and healthcare.

International Human Rights and Humanitarian Law

Yemen has ratified 7 of the 9 human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1984. According to Article 2 of this Convention, State Parties should "condemn discrimination against women in all its forms". Furthermore, because Yemen experiences an ongoing civil war, women should be protected and should have their basic human rights respected equally under international humanitarian law. During conflicts, women are more vulnerable and have a higher risk to be victims of gender-based violence and sexual violence. According to the 2017 UNFPA survey, the number of women and girls at risk of gender-based violence in the country amounts to 2.6 million3.

Right to Education

According to article 10 of CEDAW, States Parties should ensure that women have the same rights as men in terms of access to education. However, already before the civil war, access to school was a major challenge for a girl, and

1 http://www.un.org/apps/news/story.asp?NewsID=58044#.WjuUU8bh1E5

2 http://yemen.unfpa.org/en/news/violence-against-women-escalates-under-yemens-brutal-conflict

3 UNFPA (2017), UNFPA Response in Yemen : Monthly situation. http://www.unfpa.org/sites/default/files/resource-pdf/UNFPA_Yemen_-_Monthly_SitRep_11_November_2017_-_final.pdf

according to UNICEF, in 2005 almost 50 per cent of girls at the age of primary school did not attend school and more than half of Yemeni women were illiterate4.

The conflict and the indiscriminate shelling have led to the destruction of schools and resulted in a decrease in the already low number of children that have access to education. In periods of war, girls are more often forced into marriage and are facing extremely high risks to be victims of gender-based violence. These are just two of several war consequences that are aggravating the already difficult challenge of access to education for girls in the country.

Education is a powerful tool to gain more independence, especially in economic terms, and it is also going to be crucial for the future of the country in the post-conflict period of reconstruction.

Right to Healthcare

Yemen is facing a grave healthcare crisis. A high number of hospitals and health facilities have been destroyed and are not usable to treat the large number of civilians that are in need of medical care. Moreover, humanitarian aid workers are experiencing difficulties in delivering medicines where they are needed. In the conflict women have generally seen their health further deteriorate, and pregnant women are one category of the population that has been suffering. According to UNFPA, 52,800 pregnant women are in urgent need of "life-saving maternal care and medicines"5.

Having ratified CEDAW, Yemen authorities should make sure to create measure to "(…) eliminate discrimination against women in the field of health care (…)" as stated in article 12, in order to be in compliance with the Convention.

Child Marriage

Child marriage is a reality with which girls in Yemen have often been confronted, even before the beginning of the civil war. According to UNFPA, 52% of the girls were married before the age of 186. This phenomenon has increased during the conflict. In fact, according to UNICEF, in 2017 two girls out of three have been forced into marriage before age 187. During war time, families are more exposed to poverty and insecurity and consider marriage for their daughters as an economic relief solution to their difficult situations.

Article 16 of the CEDAW states that child marriage "shall have no legal effect, and all necessary measures, including legislation, shall be taken to specify a minimum age for marriage (…)". However, in Yemeni legislation there is no clear definition of the legal age for marriage. As a signatory of CEDAW, Yemen should define the legal age of marriage in order to be in full compliance with the convention.

Recommendations

- The international community and the Yemeni government should take all possible measures to ensure access to humanitarian workers in order to provide civilians with the necessary humanitarian aid.
- All parties to the conflict should stop committing human rights violations and respect international human rights and humanitarian law.
- During war women are highly vulnerable to different forms of human rights violations and gender based violence. They should be protected and all perpetrators of these crimes should be held accountable.

4 https://www.unicef.org/education/yemen_25167.html

5 UNFPA (2017), UNFPA Response in Yemen - Monthly situation. http://www.unfpa.org/sites/default/files/resource-pdf/UNFPA_Yemen_-_Monthly_SitRep_11_November_2017_-_final.pdf

6 http://www.unfpa.org/news/fighting-justice-women-amidst-conflict-yemen

7 http://files.unicef.org/yemen/Yemen2Years-children_falling_through_the_cracks.pdf

- The Yemeni government should ensure that women do not experience any discrimination because of their gender. Furthermore, their right to education and their right to healthcare should be ensured in compliance with international human rights law, and the CEDAW convention that the country has ratified.
- Given the increasing number of child and forced marriage of girls, the Yemeni government should ensure the adoption of a law specifying the minimum age for marriage in compliance with all the ratified treaties.

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*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, The Brussells Tribunal, Euro-Mediterranean Human Rights Monitor, Association of Humanitarian Lawyers (AHL), The Iraqi Commission for Human Rights (ICHR), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, International Anti-Occupation Network (IAON), NGO(s) without consultative status, also share the views expressed in this statement.

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Human rights situations that require the Council's attention

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), non-governmental organization in special consultative status; International Educational Development, Inc., and the World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Syria: UN Response to the Crisis*

This statement aims to demonstrate the response of the international community to the Syrian crisis through the United Nations and assess the impact on the ground. Hereby, we advocate for more effective UN actions to alleviate the suffering and to protect civilians. The confrontation between the government and armed groups in Syria resulted in complex civil conflict with involvement of regional and world powers, and ISIS taking advantage of the chaotic situation. It is estimated that close to half a million were killed1 since the beginning of the Syrian crisis in March of 2011. In 2017, the Humanitarian Response Team of Whole Syria assessed that 13.5 million people require humanitarian assistance, including 4.9 million people in need, trapped in besieged and hard-to-reach areas, where they are exposed to grave threats.

Over half of the population has been forced from their homes, and many people have been displaced multiple times. Children and youth, millions of whom have known nothing but conflict, comprise more than half of the displaced, as well as half of those in need of humanitarian assistance.2 Horrendous large-scale systematic human rights violations have been committed by all parties. These widespread and systematic crimes could be qualified as international crimes by the Rome Statute of the International Criminal Court. Those war crimes, crimes against humanity and genocide are not investigated, the perpetrators enjoy impunity, and victims are denied their right to remedy and reparation.

United Nations Response

The actions undertaken by the UN Security Council (UNSC) during the past seven years since the beginning of the armed conflict in Syria were limited due to the divisions among the veto-holding Council members (P5). Since 2011, UNSC expressed condemnation of violence in violation of international law, called for peace, ceasefire and resumption of political talks, for cessation of hostilities and humanitarian pause, imposed arms embargo, travel bans, and froze assets. Moreover, UNSC established the Organization for the Prohibition of Chemical Weapons-United Nations (OPCW-UN) Joint Investigative Mechanism (JIM) to determine responsibility for the use of chemical weapons in Syria and repeatedly referred to measures related to ISIS and Al-Qaida. However, the recent failure to renew the JIM's mandate and anticipated divergences over the re-authorisation for cross-border and cross-line operations may signal a trend toward even deeper polarisation and limitations on the rare initiatives that have been able to elicit the unanimous support of the Council.3

In 2011, the first UNSC action was a presidential statement that condemned the ongoing violence against protesters by Syrian forces and called for restraint on all sides. Later in October 2011, the first draft resolution recommending possible measures against Syria under Article 41 of the UN Charter was vetoed by China and the Russian Federation six times. Special Envoy Kofi Annan appointed in March 2012 proposed a six-point plan to cease troop movements and the use of heavy weapons in city centres. The Syrian government agreed to implement the plan and the Security Council authorized the deployment of the UN Supervision Mission in the Syrian Arab Republic (UNSMIS) to monitor its implementation. However, UNSMIS suspended its activities in four months due to intensified violence.

In September 2013, the unanimous SC Resolution 2118 required the verification and destruction of Syria's chemical weapons stockpiles and endorsed the establishment of a transitional governing body in Syria with full executive powers. UNSC adopted another resolution in relation to the measures directly impacting protection of civilians trapped by the armed conflict in Syria and authorised cross-border and cross-line access for the UN and its partners to deliver

1 Death count in Syria by the Syrian Network For Human Rights at http://www.iamsyria.org/death-tolls.html

2 2017 Humanitarian Needs Overview: Syrian Arab Republic, Strategic Steering Group and partners at https://www.humanitarianresponse.info/en/operations/whole-of-syria/document/2017-humanitarian-needs-overview-syrian-arab-republic

3 December 2017 Monthly Forecast, Security Council Report, Syria/Middle East, 30 November 2017 at http://www.securitycouncilreport.org/monthly-forecast/2017-12/syria_49.php

humanitarian aid in Syria without state consent and established a monitoring mechanism. In 2015, the Security Council condemned the use of toxic chemicals such as chlorine, without attributing blame and requested the UN Secretary-General and OPCW Director-General to recommend the establishment and operation of a UN-OPCW Joint Investigative Mechanism to determine responsibility for the use of chemical weapons in Syria but failed to renew it in 2017. The majority of the Council members, including the P3, publicly supported the conclusions of the JIM's final report that attributed responsibility to the Syrian government and the Islamic State in Iraq and the Levant (ISIL). But Russia questioned the JIM's credibility and its findings, pointing out that the investigations of incidents of alleged chemical use were conducted without on-site visits and without exhausting all available methods and methodologies of investigation.

In 2012-2014, the UN General Assembly (UNGA) adopted four resolutions on the situation of human rights in the Syrian Arab Republic condemning 'the continued widespread and systematic violations of human rights and fundamental freedoms by the Syrian authorities, such as the use of force against civilians, arbitrary executions, the killing and persecution of protestors, human rights defenders and journalists, arbitrary detention, enforced disappearances, interference with access to medical treatment, torture, sexual violence, and ill-treatment, including against children'. Also, UNGA supported initiatives of the Arab League on negotiating a peaceful solution to the crisis, including the endorsement of the Plan of Action of the League of Arab States and the establishment of a joint special envoy to facilitate the UN-Arab League initiative to negotiate a peaceful solution to the crisis.

Since 2011, UN Human Rights Council (HRC) regularly reviewed the deteriorating situation and adopted various resolutions. In April of 2011, a special HRC session was convened to address the situation of human rights in Syria upon the request of the US and the council adopted Resolution S-16/1, which unequivocally condemned 'the use of lethal violence against peaceful protesters by the Syrian authorities and the hindrance of access to medical treatment' and urged the government of the Syrian Arab Republic 'to immediately put an end to all human rights violations, protect its population and respect fully all human rights and fundamental freedoms, including freedom of expression and freedom of assembly'. Under the same resolution, the Office of the High Commissioner for Human Rights was authorized to dispatch a mission to Syria to investigate all alleged violations of international human rights law and to provide a preliminary report. In 2011, HRC established the Independent International Commission of Inquiry (CoI) on the Syrian Arab Republic.

Political Resolution

Under UNSC Resolution 2254, the political solution was thought to be found through peace talks between the Syrian government and opposition under the UN auspices. However, four rounds of negotiations facilitated by the UN envoy failed to bring any political resolution and armed hostilities further intensified. Despite UNSC's calls for peace, respective UN member states continued military combat and provision of support to one or another of the various warring parties.

Protection of Civilians

The Government of Syria bears the primary responsibility for protection of civilians. However, despite UNSC resolutions, violence in Syria has dramatically intensified and killings increased. The humanitarian access was gradually diminished, and the humanitarian response chronically underfunded. The measures undertaken by the international community through the United Nations decision-making bodies to protect civilians are not sufficiently effective. Humanitarian needs assessment identified 13.5 million persons in need of protection, out of this number around 6.6 million were reached in 2017.4

Humanitarian Access

UNSC repeatedly called on all parties to allow humanitarian access and cross-border humanitarian aid and numerously expressed the intent to take further steps in case of non-compliance. Despite it being central to the 2014 UNSC Resolution, humanitarian access was denied to some aid agencies. The number of civilians living in besieged or hard-to-

4 Syrian Arab Republic: Syria hub Protection and Community Services Sector activities snapshot, 14 January 2018.

reach areas that are difficult or impossible for aid agencies to reach are counted in millions. For example, the number doubled from 2.5 million in 2013 to 4.8 million at the start of 2015. Cross-border and cross-line humanitarian projects were often limited and hindered by bureaucratic impediments. The established de-escalation areas have not improved access.

International Contributions to the Humanitarian Response

As of January 2018, only 51% of the humanitarian appeal for 3.4 billion USD, in response to the Syrian crisis is funded. This budget is estimated to provide humanitarian aid to 13.5 million people in need. UNSC regularly encourages member states to provide contributions. However, the situation in reality speaks loud and clear. Only half of the humanitarian budget is covered. The overall picture becomes even darker in comparison with the military expenses of the UN member states involved in the Syrian armed conflict.

RECCOMENDATIONS

- All parties to the conflict should ensure compliance with international human rights and humanitarian law;
- United Nations Human Rights Council should urgently endorse an international independent investigation into alleged crimes against humanity and war crimes in Syria by all perpetrators;
- The situation in Syria should be referred to the International Criminal Court;
- UN member states should comply with and fully implement United Nations Security Council resolutions.

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*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, The Brussells Tribunal, Euro-Mediterranean Human Rights Monitor, Association of Humanitarian Lawyers (AHL), The Iraqi Commission for Human Rights (ICHR), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, International Anti-Occupation Network (IAON), NGO(s) without consultative status, also share the views expressed in this statement.